

LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") made and entered into as of this _____ day, of _____, 2006 by and between the City of Flagstaff, a municipal corporation organized and existing under the laws of the State of Arizona, with offices at 211 West Aspen Avenue, Flagstaff, Arizona ("Lessor"), and _____ an Arizona corporation ("Lessee").

RECITALS

- A. Lessor is the owner of certain real property located at 11 West Cherry Avenue in Flagstaff, Arizona (the "Premises"). The Premises consist of the existing building, paved parking lot, and other improvements located on lots 13 through 18 of Block 34, Flagstaff Townsite, Railroad Addition, Coconino County, Arizona.
- B. Lessee is desirous of leasing the Premises from Lessor, and Lessor has accepted the bid of Lessee pursuant to a Request for Proposals that has been properly conducted pursuant to City requirements.

AGREEMENT

1. **Leased Premises.** In consideration of the rents, covenants, and conditions hereinafter reserved, Lessor does hereby lease to Lessee and Lessee hereby takes and lets from Lessor the Premises.
2. **Use.** Lessee shall use the Premises for the fine and performing arts and shall make the Premises available to other art organizations. Lessee may charge a reasonable fee to other art organizations for the use of the Premises. Lessee shall not use or permit the Premises, or any part thereof, to be used for any purpose other than the purposes for which the Premises are leased; and no use shall be made or permitted to be made of the Premises which will increase the existing rate of insurance upon the building located on the Premises, or cause a cancellation of any insurance policy covering the building on the Premises. If Lessee uses the Premises for purposes other than those purposes specified in this lease (by which Lessor's written approval is required) and these uses increase Lessor's insurance premium, this additional premium cost will be paid for by the Lessee upon demand.
3. **Term and Option to Renew.** Subject to Subsection 3.1, the term of this Lease shall begin on the _____ day of _____, and shall continue for five (5) years from that date. Subject to Lessor's agreement, Lessee may extend this Lease, should it not be in default, for a maximum of two additional five (5) year periods by giving the Lessor written notice ninety (90) days prior to the date of commencement of the extension periods. Lessor reserves the right not

to renew the Lease, or to require new terms and conditions in the Lease, including but not limited to rental increases.

- 3.1 **Cancellation.** Lessor reserves the right to terminate this Lease at any time without cause or reason by giving Lessee notice to vacate the Premises. Upon notice, Lessee must surrender the Premises within 30 days. Lessee agrees to hold Lessor harmless and free from all liability or damages arising from early termination of this Lease.

4. **Rent.** Lessee shall pay the following to Lessor as rental for the Premises during the lease term.

- 4.1 **Minimum Rental.** The minimum annual rent shall be Six Thousand Five Hundred Dollars (\$6,500.00) payable in two (2) semi-annual installments in advance and without abatement, deduction or offset commencing on _____ and continuing thereafter during the term of the lease.

- 4.2 **Rental Rate Adjustment.** The minimum annual rent shall be increased by seven percent (7%) each year of the term of the lease. When the rental term is for a part of a month, the rent shall be prorated. Rental shall be paid to Lessor at the City of Flagstaff, Finance Department, 211 West Aspen, Flagstaff, Arizona, 86001 or at such other place as Lessor may hereafter designate by notice to Lessee.

- 4.3 **Reporting:** Lessee shall be required to submit a detailed semi-annual report to the Lessor. The report shall, at a minimum, show the dates, activities, and attendance with regard to all operations conducted at the Premises. This report shall be submitted to the Lessor by the fifteenth day of the month following each semi-annual installment.

- 4.4 **Late Payments:** All amounts not paid by the Lessee when due shall be subject to a penalty charge of ten percent (10%) of the amount due, plus interest at the rate of one percent (per month or fraction of a month from the time due until paid. If the rental amount due is delinquent past the 16th of the month, then the Lessor will be entitled to a liquidated damage fee (not a penalty) per month of ten (10) percent of the amount due. Lessee agrees to pay Lessor any cost incurred by Lessor affecting the collection of such past due rent or other sum.

5. **Compliance with Laws.** Lessee shall, at Lessee's expense, comply with all applicable federal, state and municipal laws, rules, ordinances, regulations and orders with respect to the condition, use or occupancy of the Premises. Lessee shall not use the Premises in any manner that will tend to create waste or cause a nuisance or which disturbs other occupants of adjacent Premises.

6. **Acceptance of Premises.** Lessee agrees to accept the Premises in their condition existing upon the commencement of the lease term. Thereafter, Lessor shall not be obligated to make any repairs or to maintain the building or improvements on the Premises. Lessor shall not

be held responsible in any way for damage that may be caused to Lessee's property on the Premises by reason of fire, theft, vandalism, wind, flood, rain, earthquake, or any other cause, it being the responsibility of Lessee to provide its own protection against such loss.

7. **Utilities.** Lessee shall be responsible for electric service, natural gas, water, sewer, refuse charges, cable television, telephone and any other utilities or services supplied to the Premises not listed as Lessor's obligation. Lessee shall not allow any lien against the Premises for non-payment or neglect in the use of utilities.

8. **Repairs, Maintenance and Alterations.** During the term of this Lease, Lessee, at its cost and expense, shall keep and maintain the exterior and the interior of the Premises, the building and improvements thereon, in good order, condition and repair, and in compliance with all laws, ordinances, rules, regulations or orders of any governmental authority. Lessee waives all rights to make repairs at the expense of Lessor. Lessee shall have no right at any time to make alterations and improvements to the Premises without first obtaining the prior written consent of the Lessor. In the event Lessor consents, all such alterations shall be at the sole cost and expense of Lessee. Furthermore, all approved alterations shall be constructed in a good and workmanlike manner and shall be in compliance with all applicable laws. Except as otherwise provided in Section 14, all alterations, additions to or improvements, including any wall-to-wall carpeting, shall immediately become the property of the Lessor, shall remain upon and be surrendered with the Premises as a part thereof, or at the option of the Lessor, be removed by and at the expense of the Lessee at the end of the lease term. Lessee shall pay when due all proper charges for labor and materials used by or furnished to the Lessee in connection with the alteration, improvement or repair of the Premises. Lessee shall indemnify and hold harmless the Lessor and keep the Premises free from any mechanic's or other lien of any kind created by or due to Lessee's act or omission and as a condition to consenting to alterations, Lessor may require a bond to secure payment of any such alterations.

8.1 Any damage caused or permitted by Lessee, or by Lessee's employees, agents, or invitees, to the Premises or the building of which the Premises are a part shall be repaired by Lessee or, at Lessor's election, Lessor may repair such damage at the expense of Lessee and Lessee shall reimburse Lessor for such expense upon Lessor's demand, including glass, windows and doors.

8.2 Lessor will maintain the landscaping at the Premises.

9. **Taxes and Assessments.** Lessor shall pay promptly before delinquency, all real estate property taxes and assessments against the Premises. Lessee shall pay, before delinquent, all personal property taxes, rental taxes, duties and other impositions of any kind, imposed or assessed upon the Premises, or any personal property thereon, during the term of this Lease.

10. **Parking.** The parking area located on the Premises shall be used only for the benefit of customers and employees of Lessee. Lessee shall comply with any rules and regulations adopted by Lessor with respect to the parking area, including, without limitation, restrictions upon employee parking. Lessor shall not have any liability, nor shall the Lessee be entitled to compensation or a reduction of rent for any such modifications. Except as otherwise provided,

Lessor reserves the right to have exclusive use of the complete parking areas from 6:00 A.M. until 5:00 P.M., Monday through Friday. Lessor reserves three (3) parking spaces for the exclusive use of Lessee during these hours. It shall be the responsibility of Lessee to sign and enforce parking rights for the three (3) dedicated spaces reserved for the Lessee.

11. **Quiet and Peaceful Possession.** Except as provided in Subsection 3.1, upon paying the rentals in this Lease and upon performing all of the obligations to be performed by Lessee hereunder, Lessee shall and may peaceably and quietly, have hold and enjoy the Premises and the whole thereof, for the full term of this Lease.

12. **Insurance.**

12.1 During the term of this Lease, Lessor, at its sole cost and expense, shall keep the buildings and improvements now or hereafter erected upon the Property on which the Premises are located insured for replacement cost against such risks as are included in a "Special Form Perils" Property Insurance Policy. Lessee shall also be responsible to insure its own contents and business personal property including building betterments and improvements and any stored building materials. Lessee, at its sole cost and expense, shall procure and maintain the following liability insurance coverage during the term of the lease:

12.1.1 A commercial general liability insurance policy against claims for bodily injury including death or property damage, occurring in, on or about the premises, the elevators, the adjoining sidewalks and passageways, or resulting from the Lessee's use, occupancy or maintenance thereof. This policy shall name Lessor, the City of Flagstaff and any other entities designated by Lessor as additional insureds. Such insurance shall be primary with respect to Lessor and shall be in the amount of at least One Million Dollars (\$1,000,000.00) per occurrence combined single limit (or in such higher amounts as Lessor may designate from time to time). Any commercial general liability insurance carried by Lessor shall apply in excess of the primary coverage required herein to be carried by Lessee. The commercial general liability insurance policy maintained by Lessee shall be endorsed to indicate that such policy +Nil' cover Lessee's obligations under Section 15 to the coverage limit of such policy (but the same shall not be construed to limit the liability of Lessee under Section 15) and shall provide that the insurance carrier shall have the duty to defend and/or settle any legal proceeding filed against Lessor seeking damages on account of bodily injury or property damage liability even if any of the allegations of such legal proceedings are groundless, false or fraudulent.

12.1.2 Such other insurance and in such amounts as may from time to time be reasonably required by Lessor against other insurable hazards which at the time are customarily insured against in the case of Premises similarly situated in Coconino County, Arizona, with due consideration for the height and type of the building, its construction, use and occupancy.

12.1.3 Lessee shall provide liquor liability insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence if the Lessee at any time during the duration of the lease serves or sells alcoholic beverages. This insurance coverage shall also name the Lessor, City of Flagstaff as an additional insured and shall be primary coverage regardless of any other collectable insurance.

12.2 Notice of Insurance. All insurance provided for in this Section 13 shall be placed under valid and enforceable policies issued by insurance companies qualified and licensed to do business in the State of Arizona and approved by Lessor. The policies of insurance shall be endorsed to and approved by Lessor. The policies of insurance shall be endorsed to indicate that Lessee's coverage shall not be invalid due to any act or omission on the part of Lessor. The insurance companies issuing such insurance shall agree to notify Lessor in writing of any cancellation, alteration or non renewal of said insurance at least thirty (30) days, prior thereto. Lessee shall deliver to Lessor prior to Lessee's possession of the Premises, certificates evidencing the insurance coverage required herein and confirming that the premiums therefor have been paid in full. At any time during the lease, the Lessor may request copies of the above-required insurance policies and shall receive said copies within ten business days.

12.3 Waiver of Subrogation; Release. Notwithstanding any other provisions in this Lease, Lessee hereby waives any and all rights of recovery against the Lessor, its employees, Council, Mayor, Commissions, Boards, agents and representatives, for loss of, or damage to Lessee, its property or the property of others under its control to the extent that such loss or damage is insured against under any insurance policy in force at the time of such loss or damage. Lessee shall, upon obtaining the insurance policies required hereunder, give notice to the insurance carrier or carriers that the foregoing waiver of subrogation is contained in this Lease and shall obtain, at Lessee's expense, an appropriate waiver of subrogation endorsement from the insurer and deliver said waiver to Lessor. If the Premises, or Lessee's personal property are damaged or destroyed by fire or any other cause against which Lessee is required to maintain insurance pursuant to this Lease, Lessor shall not be liable to Lessee for any such damage or destruction.

13. **Removal of Trade Fixtures.** If Lessee makes alterations to the Premises, such alterations shall at the request of Lessor be removed by and at the expense of Lessee upon the termination or expiration of this Lease, and Lessee shall report and pay the cost of repairing and restoring any damage to the Premises caused by such removal. If Lessee is not then in default, it shall have the right at any time during this Lease or upon the expiration of the term hereof to remove any fixtures, personal property and equipment of Lessee from the Premises, whether or not such fixtures, personal property and equipment be attached to the Premises; provided, however, Lessee shall be liable to Lessor for any damage caused to the Premises by any such removal and shall pay for repairing and restoring the same to Lessor promptly upon demand.

14. **Indemnity.** Lessee shall indemnify, defend, protect and hold harmless Lessor for, from and against any and all claims, liabilities, obligations and causes of action arising from Lessee's use of the Premises, or from the conduct of Lessee's business or from any activity, work or things

done, permitted or suffered by Lessee in or about the Premises or elsewhere and shall further indemnify, demand, protect and hold harmless Lessor from and against any and all claims, liabilities, obligations and causes of action arising from any breach or default in the performance of any obligation on Lessee's part to be performed under the terms of this Lease, or arising from any acts or omissions of Lessee, or any of Lessee's agents, contractors or employees, and from and against all costs, attorney's fees, expenses and liabilities incurred in the defense of any such claim or any action or proceeding brought thereon; and in case any action or proceeding be brought against Lessor by reason of any such claim, Lessee, upon notice from Lessor, shall defend the same at Lessee's expense by counsel satisfactory to Lessor. Lessee, as a material part of the consideration to Lessor hereby assumes all risk of damage to property or injury to persons, in, upon or about the Premises arising from any cause and Lessee hereby waives all claims in respect thereof against Lessor. Lessee hereby agrees that Lessor shall not be liable for injury to Lessee's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Lessee, Lessee's employees, invitees, customers, or any other person in or about the Premises, nor shall Lessor be liable for injury to the person of Lessee, Lessee's employees, agents, or contractors whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether the damage or injury results from conditions arising upon the Premises or upon other portions of the property of which the Premises are a part, or from other sources or places, and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Lessee.

15. **Surrender of Premises.** Upon the expiration of the term of this Lease or its earlier termination, Lessee shall forthwith surrender and deliver the Premises in a clean condition and all improvements that are to remain thereon to Lessor in good condition and repair, ordinary wear and tear excepted.

16. **Waiver.** No waiver by Lessor of any provision of this Lease or of any default hereunder by Lessee shall be deemed a waiver of any other provision or default by Lessee of the same or any other provision and the acceptance of rent by Lessor shall not be a waiver of any default by Lessee, other than the failure to pay the particular rent accepted.

17. **Assigning and Subletting.** Lessee shall not assign or sublease the Premises or any interest therein without the prior written consent of Lessor. Any assignment or sublease shall not release Lessee of any liability hereunder, but Lessee shall be and shall continue to be liable to the end of the term of this Lease unless Lessor shall specifically consent to such a release in writing. In the event of any assignment or sublease, any assignee or sublessee shall assume and be bound by, and personally liable for all undischarged liabilities, obligations and promises of Lessee hereunder. Acceptance or taking possession of the Premises by any such assignee or sublessee shall be conclusive evidence of such assumption and liability, and such assignee or sublessee, if requested by Lessor, shall attorn to Lessor and evidence such attornment by appropriate written instrument delivered to Lessor.

18. **Damage or Destruction of Premises.** Should any improvements, appurtenances or buildings, whether now or hereafter situated on the Property on which the Premises are located

during the term of this Lease, be wholly or partially destroyed by fire or other casualty covered by the insurance carried pursuant to Section 13 hereof, Lessor shall, at its expense, repair, restore or reconstruct the improvements, appurtenances or buildings, using all diligence to do so within 180 days, unless prevented by forces beyond the control of the Lessor. Until the Premises are so restored, the monthly rent to be paid by Lessee shall be reduced in the proportion that the untenable part of the Premises bears to the whole of the Premises. All insurance proceeds shall be made available to Lessor for the repairs, restoration or reconstruction of the buildings on the Premises. In the event Lessor should fail to repair, restore, or reconstruct the building on the Premises within one hundred eighty days, subject to delays caused by forces beyond Lessor's control, Lessee shall have the right to terminate this Lease by delivering written notice of such termination to Lessor, and upon such termination, Lessee and Lessor shall be relieved of all further obligations and liabilities hereunder. Notwithstanding any provision hereof to the contrary, Lessor shall have no obligation to repair, restore or reconstruct the Premises and the rent to be paid by Lessee shall not be reduced if the damage or destruction is caused by any act or omission of Lessee, its employees, agents or customers, and this Lease shall continue in effect as though such damage or destruction had not occurred, except that Lessee shall be required to promptly restore and reconstruct in a manner satisfactory to Lessor. If the Premises or any portion thereof is damaged or destroyed by fire or other peril covered or required to be covered by the insurance which must be maintained pursuant to this Lease, then Lessee shall give prompt notice to insurer and to Lessor of any damage or destruction occurring on the Premises.

19. Eminent Domain. In the event all or any portion of the Premises shall be taken from Lessee under any eminent domain or similar proceedings including a sale under the threat of condemnation, this lease shall terminate as to the part so taken as of the date the condemning authority takes possession; and the entire award will belong solely to the Lessor, and Lessee will have no claim against the Lessor for the value of the unexpired term of this Lease, except Lessee will be entitled for that part of the award specifically allocated to the equipment, furniture and fixtures owned by the Lessee; provided, further, that no such claim shall diminish or otherwise adversely affect the Lessor's award. This Lease, unless more than 10 percent of the floor area of the Premises is taken, or more than 25 percent of the land area not occupied by a building is taken, shall remain in effect as to the remaining portion of the Premises, and the rental shall be reduced in the same proportion that the part of the rentable floor area of the Premises taken bears to the total rentable floor area of the Premises at the execution of this Lease. No reduction of rent shall occur if the only part of the Premises taken is land on which there is no building.

20. Termination of Legal Proceedings. If Lessee shall at any time during the term of this Lease be or become insolvent, or if a petition in bankruptcy shall be filed by or against Lessee, or if Lessee shall compound the Lessee's debts or sign over the Lessee's estate or effects for payment thereof, or if any sheriff, marshal, constable or other officer takes possession thereof by virtue of any execution or attachment, or if a receiver or trustee shall be appointed of the Lessee's property, or if this Lease, by operation of law, shall devolve upon or pass to any person or persons other than Lessee and in the event any of the happenings herein set forth occur and shall not be released, stayed, bonded, insured, satisfied or vacated within forty-five days after the occurrence of any of the events herein set forth, then and in each of said cases it shall and may be lawful for the Lessor at its election, to enter into and upon Premises or any part thereof, and to have, hold, possess and enjoy the same as of the Lessor's former estate, discharged from this

Lease, and this Lease shall there upon be terminated, anything herein contained to the contrary notwithstanding.

21. Attorneys' Fees. If Lessor shall commence any legal proceedings against Lessee for the recovery of rent or to recover possession or for relief because of any default by Lessee and shall prevail therein, Lessee shall in each and every such instance pay to Lessor all expenses thereof, including reasonable attorney's fees. If Lessee shall commence any legal proceedings against Lessor for relief because of any default by Lessor and shall prevail therein, Lessor shall in each and every instance; pay to Lessee all expenses thereof, including reasonable attorney's fees.

22. Default of Lessee. If at any time the rental or any money payments hereunder, or any part thereof, shall remain unpaid for a period of ten days after the same becomes due; or if the Lessee shall fail to fulfill, or perform any of the other agreements and provisions hereof obligatory upon Lessee and if said nonfulfillment or nonperformance shall continue for a period of thirty days after written notice from Lessor, Lessee shall be in default thereunder, and Lessor may at any time thereafter, without limiting Lessor in the exercise of any other legal right or remedy which Lessor may have by reason of such default or breach exercise the following remedies;

22.1 Lessor shall have the immediate right to terminate this Lease and re-enter the Premises and remove all persons and property from the Premises, without liability to any person or entity for damages sustained by reason of such removal. Such property may be removed and stored in a public warehouse or elsewhere at the cost of and for the account of Lessee. If Lessor elects to re-enter as herein provided, or take possession pursuant to legal proceedings or pursuant to any notice provided by law, Lessor may terminate this Lease, or it may from time to time, without termination of this Lease, relet the Premises or any part thereof for such term or terms (which may be for a term extending beyond the term of this Lease) and at such rental and upon such other terms and conditions as Lessor, in its sole discretion, may deem advisable, with the right to make alterations and repairs to the Premises; provided, however, that Lessor may lease other space in the Property prior to reletting or attempting to relet the Premises. If Lessor elects to terminate this Lease, Lessor shall immediately be entitled to recover from Lessee as damages the amount, if any, by which the aggregate of rental and other amount payable by Lessee for the balance of the term of this Lease, if it were not terminated shall exceed the then reasonable rental value of the Premises for such period, in addition to recovering all rental due but unpaid, if any. If Lessor elects to relet the Premises, upon such reletting, the rents received by Lessor shall be applied first to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; second, to the payment of any costs and expenses of such reletting and of such alterations and repairs; third, to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied to payment of future rent as the same may become due and payable hereunder. If the rents received from such reletting during any month are less than that to be paid during that month by Lessee hereunder, Lessee shall immediately pay any such deficiency to Lessor. Such deficiency shall be calculated and paid monthly. No such re-entry or taking possession of the Premises by Lessor shall be construed as an election on its part to terminate this Lease unless a written notice of such intention is given to Lessee

or unless the termination thereof be decreed by a court of competent jurisdiction. Notwithstanding any such reletting without termination, Lessor may, at any time thereafter, elect to terminate this Lease for such previous breach.

22.2 Lessor shall have the right, but not the obligation, to render the performance required to cure such default or breach and to charge to Lessee all costs and expenses incurred in connection therewith, together with interest thereon from the date incurred at the rate provided below, and Lessee shall immediately pay the same upon presentment of a statement to Lessee indicating the amount thereof.

22.3 Lessor shall have the right to obtain the appointment of a receiver in any court of competent jurisdiction, and the receiver may take possession of any personal property belonging to Lessee and used in the conduct of the business of Lessee being carried on in the Premises. Lessee agrees that the entry or possession by said receiver of the Premises and said personal property shall not constitute an eviction of Lessee from the Premises or any portion thereof, and Lessee hereby agrees to hold Lessor safe and harmless from any claim by any person arising out of or in any way connected with the entry by said receiver in taking possession of the Premises and/or said personal property. Neither the application for the appointment of such receiver, nor the appointment of such receiver, shall be construed as an election on Lessor's part to terminate this Lease unless a written notice of such intention is given to Lessee.

22.4 No remedy herein conferred upon Lessor shall be considered exclusive of any other remedy, but the same shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute, including, but not limited to, the right to maintain an action to recover all amounts due hereunder. Lessor may exercise its rights and remedies at any time, in any order, to any extent, and as often as Lessor deems advisable.

22.5 In addition to other legal rights and remedies available to Lessor if Lessee should default in the performance of any provision hereof, Lessor, at its option, may make any payment or perform any provision for Lessee, and all costs and expenses so incurred by Lessor including without limitation, attorney's fees, together with interest at ten percent per annum, shall be payable by Lessee to Lessor upon demand.

23. Estoppel Certificate. Upon receipt of a written request therefor from Lessor, Lessee shall, from time to time, and within ten (10) days after receipt of such request, execute, acknowledge and deliver to Lessor a statement in writing (i) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease, as so modified, is in full force and effect) and the dates to which the rental and other charges are paid in advance, if any, (ii) acknowledging that there are no uncured defaults on the part of Lessor, or specifying such defaults if any are claimed, and (iii) certifying or acknowledging any other matters that Lessor may reasonably request for certification or acknowledgement. Any such statements may be relied upon by Lessor and/or any prospective purchaser or encumbrancer of all or any portion of the Premises. Lessee's failure to deliver such statement within such time shall be conclusive against Lessee that (i) this Lease is in full force

and effect, without modification except as may be represented by Lessor, (ii) there are no uncured defaults in Lessor's performance, and (iii) not more than one month's rent has been paid in advance.

24. Subordination. This Agreement shall be subordinate to all present and future ground leases, mortgages, deeds of trust and any other encumbrances consented to by Lessor and also to any modifications or extensions thereof. Lessee agrees to execute any subordination agreements presented by Lessor upon presentation.

25. Entry of Premises of Lessor. Lessor and its agents at any and all reasonable times shall have the right to go upon the Premises for the purpose of ascertaining whether Lessee is complying with the terms of this Lease, or for any other necessary and proper purpose, including but not limited to showing the property to prospective buyers or Lessees.

26. Headings. The captions used as heading for the various paragraphs are for convenience only, and are not to be considered as a part of this Lease, or used in determining the intent or context thereof. The invalidity of any provision hereof shall not affect the validity of any other provision hereof.

27. Notices and Demands. Any notices or demands which shall be required or permitted by law or any of the provisions of this Lease shall be in writing, and if the same is to be served upon Lessor, may be personally delivered to Lessor, or may be deposited in the United States mail, registered or certified, postage prepaid, addressed to Lessor at the place where the last installment of rental was payable, or at such other address as Lessor may designate in writing. If such notices or demands are to be served upon Lessee, such notices or demands may be personally delivered to the Lessee or may be deposited in the United States mail, registered or certified, postage prepaid, addressed to Lessee at the Premises, or at such other address as the Lessee may designate in writing. If, at any time or from time to time, there shall be more than one Lessor, or more than one Lessee, service upon any one of them shall constitute service and shall be binding upon all of them.

28. Time of Essence. Time is of the essence of this agreement.

29. Binding upon Successors. The covenants and agreements of this Agreement shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties subject, however, to the provisions of the Agreement with respect to assignment and subleasing by Lessee.

30. Environmental Matters. The Environmental Provisions set forth in Addendum "A" are incorporated by reference into this Agreement.

31. Signs. Signs needed with respect to Lessee's business on the Premises may be permitted by Lessor upon the reasonable demonstration of need by Lessee. All signs installed by Lessee shall conform to the requirements of the City of Flagstaff Sign Code.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease Agreement on the day and year first above written.

Lessor
City of Flagstaff

Lessee

By: Joseph C. Donaldson, Mayor

By:

Attest:

Attest:

City Clerk

Secretary of the Corporation

Approved as to form:

City Attorney

EXHIBIT A
COMPLIANCE WITH ENVIRONMENTAL LAWS

31.1 Compliance with Environmental Laws., Lessee shall, at Lessee's own expense, comply with all present and hereinafter enacted Environmental Laws, and any amendments thereto, affecting Lessee's operation on the Property.

31.1.1 Indemnification. Lessee shall not cause or permit any hazardous material to be used, generated, manufactured, produced, stored, brought upon, or released, on, under or about the Property, or transported to and from the Property, by Lessee, its agents, employees, contractors, invitees, or a third party that enters the Premises through Lessee's controlled access point(s) in violation of any Environmental Law. Lessee shall indemnify, defend and hold harmless the Lessor, its successors and assigns, its employees, agents and attorneys from and against any and all liability, loss, damage, expense, penalties and legal and investigation fees or costs, arising from or related to any claim or action for injury, liability, breach of warranty or representation, or damage to persons or property and any and all claims or actions brought by any person, entity or governmental body, alleging or arising in connection with contamination of, or adverse effects on, the environment or violation of any. Environmental Law or other statute, ordinance, rule, regulation, judgment, or order of any government or judicial entity which are incurred or assessed as a result (whether in part or in whole) of any activity or operation on or discharge from the Property during the term of this Agreement by Lessee or its owners or related entities. This obligation includes but is not limited to all costs and expenses related to cleaning up the Property, land, soil, underground or surface water as required under the law. Lessee's obligations and liabilities under this paragraph shall continue so long as the Lessor bears any liability or responsibility under the Environmental Laws for any action that occurred on the Property during the term of this Agreement. This indemnification of the Lessor by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of hazardous material located on the Property or present in the soil or ground water on, under or about the Property. The parties agree that the Lessor's right to enforce Lessee's promise to indemnify is not an adequate remedy at law for Lessee's violation of any provision of this Section; the Lessor shall also have the rights set forth in the following paragraph of this Section in addition to all other rights and remedies provided by law or otherwise provided in this Agreement.

31.1.2 Removal of Contamination. Without limiting the foregoing, if the presence of any hazardous material on, under or about the Property caused or permitted by Lessee subsequent to the date of this Agreement results in any contamination of the Property, Lessee shall promptly take all actions at its sole cost and expense as are necessary to return the Property to the condition existing prior to the introduction of any such hazardous material to the Property; provided that the Lessor's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term effect on the Property.

31.1.3 Informational Submittals. Lessee shall, at Lessee's own cost and expense, make all submissions to, provide all information to, and comply with all requirements of the appropriate governmental authority (the "Government") under the Environmental Laws. Should the Government determine that a site characterization, site assessment and/or a cleanup plan be prepared or that a cleanup should be undertaken because any spills or discharges of hazardous materials at the Property which occur during the term of this Agreement, then Lessee shall, at Lessee's own cost and expense, prepare and submit the required plans and financial assurances, and carry out the approved plans. At no cost or expense to the Lessor, Lessee shall promptly provide all information requested by the Lessor to determine the applicability of the Environmental Laws to the Premises, or to respond to any governmental investigation or to respond to any claim of liability by third parties which is related to environmental contamination.

31.1.4 Notification. Lessee shall immediately notify the Lessor of any of the following:

- a) Lessee's receipt of any correspondence or communication from any governmental entity regarding the application of Environmental Laws to the Property or Lessee's operation on the Property.
- b) Any change in Lessee's operation on the Property that will change or has the potential to change Lessee's or the Lessor's obligations or liabilities under the Environmental Laws.

31.1.5 Provisions Applicable to Sublease Tenants. Lessee shall insert the provisions of this Section in any lease agreement or contract by which it grants a right or privilege to any person, firm, corporation or entity under this Agreement.

31.1.6 Termination of Lease. Lessee's failure or the failure of its agents, employees, contractors, invitees or the failure of a third party that enters the Premises through Lessee's controlled access point(s) to comply with any of the requirements and obligations of this Article or applicable Environmental Law shall constitute a material default of this Agreement and shall permit the Lessor to pursue the remedies provided in Section 23 of this Lease.